

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10CV427

JOSEPH DEBLAKER and JERRY)
CHRISTOPHER and KRISTIE E.)
THORNE, individually and on behalf of)
themselves and all others similarly)
situated,)
)
Plaintiffs,)
)
vs.)
)
MI WINDOWS AND DOORS, INC.,)
)
Defendant.)
_____)

ORDER

This matter is before the Court upon its own motion. Defendant has filed a Motion to Reconsider, or, in the Alternative, Certify for Interlocutory Review, the Court's Order denying its Motion to Dismiss Counts I and II of the Amended Complaint. This motion remains under consideration. However, upon review of this motion, it has come to the Court's attention that there is an issue that the parties have failed to address in their briefs to date. While Plaintiffs allege in Paragraph 31 of the Second Amended Complaint that the Complaint was filed prior to the expiration of any applicable statutes of limitations or statutes of repose, the Court would like for the parties to specifically address the potential applicability of the statute of repose in the North Carolina real property improvement statute, N.C. Gen. Stat. § 1-50(a)(5). Since Plaintiffs bear the burden of proof, the court directs Plaintiff to file a brief within fourteen days specifically addressing the applicability or non-applicability of this statute. Defendant may

thereafter have fourteen days to respond. Plaintiff may file a reply within seven days thereafter.

IT IS SO ORDERED.

Signed: February 17, 2012

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

